



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2015-0527; A-1-FRL- 9935-33-Region1]

Air Plan Approval; Maine; General Permit Regulations for Nonmetallic Mineral Processing Plants and Concrete Batch Plants

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes and requires general permit regulations for nonmetallic mineral processing plants and concrete batch plants. The regulations provide an option for minor new sources of air emissions to comply with the State's minor new source review (NSR) rules in lieu of obtaining an individual permit. The intended effect of this action is to approve Maine's general permit regulations for minor source nonmetallic mineral processing plants and concrete batch plants. This action is being taken in accordance with section 110 the Clean Air Act.

DATES: This direct final rule will be effective [Insert date 60 days from date of publication in the Federal Register], unless EPA receives adverse comments by [Insert date 30 days from date of publication in the Federal Register]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2015-0527 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: mcdonnell.ida@epa.gov
3. Fax: (617) 918-0653.
4. Mail: “Docket Identification Number EPA-R01-OAR-2015-0527”, Ida E. McDonnell, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912.
5. Hand Delivery or Courier. Deliver your comments to: Ida E. McDonnell, Manager, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2015-0527. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If

you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available in www.regulations.gov or in hard copy at U.S.

Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Office of Ecosystem

Protection, 5 Post Office Square, Suite 100 (OEP05-2), telephone number (617) 918-1656, fax number (617) 918-0656, email lancey.susan@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

II. Maine’s General Permit Regulations

A. What does Maine’s General Permit Regulation for Nonmetallic Mineral Processing Plants Require?

B. What does Maine’s General Permit Regulation for Concrete Batch Plants Require?

III. EPA’s Evaluation

IV. Final Action

V. Incorporation by Reference

VI. Statutory and Executive Order Reviews

I. Background and Purpose

On July 24, 2014, supplemented with a technical support document (TSD) on August 20, 2015, the State of Maine submitted two formal revisions to its State Implementation Plan (SIP). The SIP revisions consist of Maine's 06-096 Code of Maine Regulations (CMR) Chapter 149, "General Permit Regulation for Nonmetallic Mineral Processing Plants"¹ (Chapter 149) and Maine's 06-096 CMR Chapter 164, "General Permit Regulation for Concrete Batch Plants"² (Chapter 164), accompanied by a TSD. Maine originally adopted Chapter 149 "General Permit Regulation for Nonmetallic Mineral Processing Plants" on July 17, 2008 and adopted amendments on April 4, 2014, with an effective date of April 27, 2014. Maine adopted Chapter 164 "General Permit Regulation for Concrete Batch Plants" on April 4, 2014, with an effective date of April 27, 2014.

Maine's Chapter 115 includes the State's new source review (NSR) requirements for new major and minor sources and modifications of air emissions. Among other requirements, Chapter 115 includes requirements for such sources to apply Best Available Control Technology (BACT). Maine's July 24, 2014 SIP submittal provides an option for minor new nonmetallic mineral processing plants and concrete batch plants to satisfy the state's minor NSR permitting requirements under Chapter 115 in lieu of obtaining an individual permit. The two general permit regulations include monitoring, record keeping and reporting requirements, as is required for an individual minor NSR permit under Chapter 115, and includes pollution control requirements and emission limitations that satisfy Chapter 115's BACT requirements for nonmetallic mineral processing plants and concrete batch plants. See section II of this notice for

¹ In a letter dated August 20, 2015, Maine formally withdrew the "director discretion" provisions in sections 5(A)(8), 5(A)(9)(a), and 5(A)(9)(b), and the opacity provisions in sections 5(A)(15), 5(C)(7), and 5(E), in Chapter 149 from consideration as part of its July 24, 2014 SIP revision.

² In a letter dated August 20, 2015, Maine formally withdrew the "director discretion" provisions in sections 5(C)(2), 5(C)(3)(a), and 5(C)(3)(b), and the opacity provision in sections 5(A)(10), 5(B)(3), 5(B)(4), 5(E), 5(F)(5) and 5(G)(4), in Chapter 164 from consideration as part of its July 24, 2014 SIP revision.

details about the requirements in Maine's general permit regulations and see section III for a summary of EPA's evaluation of the State's general permit regulations. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of either or both of Maine's regulations as part of this action and if that provision or provisions may be severed from the remainder of the State's regulations and this action, EPA may adopt as final those provisions of this action that are not the subject of an adverse comment.

II. Maine's General Permit Regulations

A. What does Maine's General Permit Regulation for Nonmetallic Mineral Processing Plants Require?

Chapter 149, "General Permit Regulation for Nonmetallic Mineral Processing Plants" regulates stationary and portable nonmetallic mineral processing plants which are not major sources. Owners and operators may obtain specific regulatory coverage under Chapter 149 in lieu of an individual air emissions license. Sources do so by obtaining a Crusher Identification Number (CIN) for each individual rock crusher and submitting a Notification of Intent to Comply (NOITC), attesting to their formal agreement to abide by all applicable conditions of Chapter 149. Power plant engines, located at the plant in question, including generator sets and diesel drives, do not require a CIN, but are subject to the provisions of the general permit regulation when associated with the rock crushing activities. In addition, power plant engines located at the plant also have size limits and must be portable, non-stationary engines in order for the plant to be eligible for coverage under the general permit regulation. Maine's general permit regulation also limits facility-wide fuel use to no more than 65,000 gallons of fuel oil, or the combined

equivalent of natural gas and propane, in a calendar year. This fuel use limit was chosen to ensure that emissions of all criteria pollutants remain under the reporting thresholds for Maine's Emissions Statements rule. The Emissions Statement reporting thresholds are well below Chapter 115 thresholds which require facilities to perform an air quality impact analysis. Finally, if the construction, modification, or operation of the nonmetallic mineral processing plant would not comply with all of the conditions of the general permit regulation, the owner must apply for an individual air emission license under Chapter 115 prior to beginning the actual construction, modification or operation of the source.

Chapter 149 requires operators to establish and maintain best management practices for suppression of fugitive particulate matter during any construction, reconstruction, or operation which may result in fugitive dust, and to maintain and operate all air pollution systems in a manner consistent with good air pollution control practices for minimizing emissions. Chapter 149 requires spray nozzles or other control equipment for particulate control on the rock crusher. Plants using a control method other than water sprays or carry over from up-stream water sprays are excluded from applicability of Chapter 149 and must obtain an individual air emission license under Chapter 115. Chapter 149 requires monthly inspections of water sprays and a log detailing the maintenance and corrective actions on particulate matter control equipment. For eligible power plant engines associated with the rock crushing activities, Chapter 149 sets facility-wide fuel usage limits, fuel sulfur content limits, particulate matter emission limits if the engine is greater than 3.0 MMBtu/hr, and prohibitions against using any engine as a dispatched load generator. See sections 5(B) and 5(C) of Chapter 149.

B. What does Maine's General Permit Regulation for Concrete Batch Plants Require?

Chapter 164 “General Permit Regulation for Concrete Batch Plants” regulates concrete batch plants which are not major sources. Owners and operators may obtain specific regulatory coverage under Chapter 164 in lieu of obtaining an individual air emissions license. Sources do so by obtaining a General Permit Number (GPN) for each unit and submitting a Notification of Intent to Comply (NOITC), attesting to their formal agreement to abide by all applicable conditions of Chapter 164. Generator sets, small boilers and hot water heaters, located at the concrete batch plant, do not require a GPN but are subject to the provisions of the general permit regulation when associated with the operations of the plant. Engines, boilers, and hot water heaters eligible for coverage under the general permit regulation must meet specified size limits. In addition, engines must be portable, non-stationary engines in order for the plant to be eligible for coverage under the general permit regulation. Maine's general permit regulation also limits facility-wide fuel use to no more than 65,000 gallons of fuel oil, or the combined equivalent of natural gas and propane, in a calendar year. This fuel use limit was chosen to ensure that emissions of all criteria pollutants remain under the reporting thresholds for Maine's Emissions Statements rule. The Emissions Statement reporting thresholds are well below Chapter 115 thresholds which require facilities to perform an air quality impact analysis. Finally, if the construction, modification, or operation of a concrete batch plant would not comply with all of the conditions of the general permit regulation, the owner must apply for an individual air emission license under Chapter 115 prior to beginning the actual construction, modification or operation of the source.

Chapter 164 requires operators to establish and maintain best management practices for suppression of fugitive particulate matter during any construction, reconstruction, or operation which may result in fugitive dust, and to maintain and operate all air pollution systems in a manner consistent with good air pollution control practices for minimizing emissions.

Operators are required to maintain particulate control on the concrete batch plant, and associated material handling systems, bag house filtration systems and cement silos. Chapter 164 requires monthly inspections of control equipment and a log detailing the maintenance and corrective actions on particulate matter control equipment, as well as testing, monitoring and recordkeeping requirements. In addition, for engines, boilers and hot water heaters, Chapter 164 sets sulfur content in fuel limits, facility fuel usage limits, and particulate matter limits if the engines, boilers, and hot water heaters are greater than 3.0 MMBtu/hr. See section 5(B) in Chapter 164.

III. EPA's Evaluation

Maine's July 24, 2014 SIP submittals establish and require general permit regulations meant to satisfy the Chapter 115 minor NSR requirements for nonmetallic mineral processing plants and concrete batch plants. The general permit regulations include control requirements and emission limits that satisfy the state's minor NSR BACT requirement. The regulations also include monitoring, recordkeeping and reporting requirements as required by the state's Chapter 115 minor NSR permitting requirements. The regulations provide an option for minor new and modified nonmetallic mineral processing plants and concrete batch plants to comply with the requirements of the general permit regulation in lieu of applying for and receiving a minor NSR permit under Chapter 115.

Section 110(a)(2)(C) of the Act requires, in part, that state SIPs include permit programs that regulate the construction and modification of stationary sources adequate to ensure the national ambient air quality standards (NAAQS) are achieved. A minor stationary source is a source whose potential to emit is lower than the major source applicability threshold for particular pollutants defined by the applicable major NSR program. Because Maine's SIP

submittals are only meant to satisfy the requirements of minor NSR, we evaluated Maine's Chapter 149 and Chapter 164 general permit regulations under EPA's implementing regulations for minor NSR SIP revisions found at 40 CFR 51.160 through 51.164. EPA requires that a minor NSR program include legally enforceable procedures, public availability of information, identification of the responsible agency, administrative procedures, and stack height procedures (see 40 CFR 51.160-51.164). The following describes how Maine's SIP submittals meet these requirements.

The regulation at 40 CFR 51.160(a) requires that each plan must set forth legally enforceable procedures that enable the State or local agency to determine whether the construction or modification of a facility, building, structure or installation or combination of these will result in: (1) a violation of applicable portions of the control strategy; or (2) interference with attainment or maintenance of a national standard in the state in which the proposed source or modification is located or in a neighboring state. The regulation at 40 CFR 50.160(b) provides that such procedures must include means by which the State or local agency responsible for final decision-making on the application for approval to construct or modify will prevent such construction or modification if: (1) it will result in a violation of applicable portions of the control strategy; or (2) it will interfere with the attainment or maintenance of a national standard.

Maine's Chapter 115 Major and Minor Source Air Emission License Regulations require all applicants for new construction and modifications to existing sources to provide an assessment of the ambient air quality impact of the source, including the NAAQS, if the new source or modification exceeds certain thresholds. The source or modification must demonstrate that the maximum emission rates of all regulated and hazardous air pollutants will not violate any applicable requirements or interfere with attainment or maintenance of a NAAQS in Maine or a

neighboring state.

To comply with this requirement, Maine's general permit regulations are not applicable to larger sources that exceed the regulations' emission threshold levels or other program requirements. These larger sources must obtain an individual air emissions license under Chapter 115. In addition, both general permit regulations give Maine the authority to prohibit a source from using the general permit rules if Maine has reasonable cause to believe that emissions from the proposed, modified, or relocated source will violate the control strategy or interfere with attainment or maintenance of a national standard in Maine or in a neighboring state. See section 1(F)(9) of Chapters 149 and 164.

Maine also conducted a technical analysis to determine the impact of the smaller nonmetallic mineral processing plants and concrete batch plants that would be eligible for coverage under the general permit regulations. Maine analyzed its 2011 emissions inventory data to assess the relative contribution of nonmetallic mineral processing plants and concrete batch plants to the statewide particulate matter (PM) inventory. Annual emissions from these source categories were significantly lower than total emissions of PM in the State. There is a total of 334 nonmetallic mineral processing plants licensed in Maine, of which 238 plants hold an individual license under Chapter 115. The remaining 96 facilities have been licensed under the Chapter 149 general permit rule and Maine estimates the emissions from these plants combined to be only 8.64 tons per year. There is a total of 73 licensed concrete batch plants in Maine, of which 59 hold an individual license under Chapter 115. The remaining 14 facilities are licensed under the Chapter 164 general permit rule and their combined emissions are estimated at 5.6 tons per year. Statewide PM emissions in 2011 totaled 69,370.64 tons per year.

Thus, Maine's TSD demonstrates that PM emissions from all nonmetallic mineral processing plants account for a maximum of 0.0433% of the statewide PM emissions inventory,

with plants obtaining coverage under Maine's general permit regulations accounting for only 0.01% of the total PM emissions statewide. PM emissions from all concrete batch plants account for a maximum of 0.0421% of total statewide PM emissions, with plants obtaining coverage under Maine's general permit regulations accounting for only 0.008% of total PM emissions statewide. Therefore, Maine's TSD demonstrates to EPA's satisfaction that the air quality impacts from the nonmetallic mineral processing plants and concrete batch plants eligible for coverage under Maine's general permit regulations to be extremely small.

Maine does not expect there will be a significant change in the number of sources that are using the general permit programs, since many owners and operators of eligible units have other permitted equipment (e.g., an asphalt batch plant) that must be permitted through the standard licensing process under Chapter 115. Maine also does not expect significant growth in either of these source sectors. Sources applying for a license under these general permit rules will be required to meet all applicable control requirements, as described above in section II. Prior to the adoption of Chapters 149 and 164, Maine did not have specific regulations or control requirements for rock crushers and concrete batch plants per se. Instead, control requirements for new and modified sources were established utilizing a case-by case best available control technology (BACT) determination through the Maine's Chapter 115 Major and Minor Source Air Emission License Regulations. With the adoption of the general permit rules, these control technology requirements are now explicitly codified for these specific sources in Maine's regulations. Although Maine does not anticipate control technology improvements for these minor sources, Maine retains the authority to amend these rules in the event federal standards or requirements change.

The regulation at 40 CFR 51.160(c) specifies that the plan's procedures must provide for the submission, by the owner or operator of the building, facility, structure, or installation to

be constructed or modified, of such information on: (1) the nature and amounts of emissions to be emitted by it or emitted by associated mobile sources; (2) the location, design, construction, and operation of such facility, building, structure, or installation as may be necessary to permit the State or local agency to make the determination whether the proposed construction would result in any unacceptable air quality impacts. See 40 CFR 51.160(a) and (b). Maine's Chapter 149 and 164 rules both establish application information required to be submitted for a general permit, including, but not limited to the following: (1) Identifying information, including contact information for the owner; (2) The age, type, and maximum processing rate; (3) A unique identifier, such as a serial number, etc. associated with the source; (4) Any other information that may be necessary to implement and enforce any requirements applicable to the source pursuant to federal or state air emission control regulations; and (5) If required by the Department, proposed monitoring, testing, record keeping and reporting protocols and results of previously performed performance tests. See section 3(B) of Chapter 149 and 164. Moreover, Maine's application forms for coverage under the general permit regulations require an applicant to submit other information, such as the location of the facility, which would assist the State in determining whether the proposed construction would result in any unacceptable air quality impacts. EPA's approval of Maine's general permit regulations is appropriate in light of this and the other information required of applicants, and EPA believes that Maine must continue to require such information in its applications in order to meet the requirements of the CAA and its implementing regulations.

The regulation at 40 CFR 51.160(d) specifies that the plan's procedures must provide that approval of any construction or modification must not affect the responsibility of the owner or operator to comply with applicable portions of the State's pollution control strategy. Maine's general permit rules explicitly state that the regulations do not release a person from the

obligation to comply with any other applicable state or federal requirements. See section 1(E) of Chapter 149 and section 1(D) of Chapter 164.

The regulation at 40 CFR 51.160(e) provides that the plan's procedures must identify types and sizes of facilities, buildings, structures, or installations which will be subject to review under this section. The plan must discuss the basis for determining which facilities will be subject to review. Maine's Chapters 149 and 164 both contain applicability provisions that identify the types and size of facilities, buildings, structures, or installations that are covered under the respective rules. See section 1 of Chapters 149 and 164.

The regulation at 40 CFR 51.160(f) provides that the plan's procedures must discuss the air quality data and the dispersion or other air quality modeling used to meet the requirements of subpart I, Review of New Sources and Modifications. See the earlier discussion about Maine's technical analysis of the air quality impacts from the sources subject to these general permit rules in its TSD. In addition, Maine's Chapter 115 Major and Minor Source Air Emission License Regulations require every applicant to provide an affirmative demonstration that its emissions, in conjunction with all other sources, will not violate applicable ambient air quality standards, except that sources in nonattainment areas, or sources which significantly impact a nonattainment area, shall be required to demonstrate that the source's emissions are consistent with reasonable further progress provisions of the SIP. An applicant may use ambient air monitoring, modeling, or other assessment techniques as approved by Maine. NSR modeling required pursuant to Chapter 115 must be consistent with EPA regulations and guidelines or other requirements under the CAA. See sections 7(C) and (D) of Chapter 115. In the event Maine determines that it has reasonable cause to believe that emissions from the proposed, modified, or relocated source will violate the control strategy or interfere with attainment or maintenance of a national standard in Maine or in a neighboring state, Maine has the ability to

require an operator to apply for and obtain an individual air emission license under Chapter 115 (and perform an ambient air quality analysis) before beginning the actual construction, modification, or operation of the source. See section 1(F)(9) of Chapter 149 and section 1(E)(9) of Chapter 164. If modeling is deemed necessary, Chapter 115 requires modeling to be based on the relevant air quality models, databases, and other requirements specified in the current Guideline on Air Quality Models found in Appendix W to 40 CFR Part 51. See section 7(A) of Chapter 115.

The regulation at 40 CFR 51.161 requires that the legally enforceable procedures in 40 CFR 51.160 must also require the State or local agency to provide opportunity for public comment on information submitted by owners and operators. The public information must include the agency's analysis of the effect of construction or modification on ambient air quality, including the agency's proposed approval or disapproval. Chapter 149 and Chapter 164 rules were posted to a 30-day public comment period with opportunity to request a public hearing in accordance with state and federal administrative requirements. Public notice of the comment period was published on the Secretary of State's rulemaking website and in newspapers statewide on January 15, 2014.

The regulation at 40 CFR 51.162 specifies that each plan must identify the State or local agency which will be responsible for meeting the requirements of this subpart in each area of the State. Where such responsibility rests with an agency other than an air pollution control agency, such agency will consult with the appropriate State or local air pollution control agency in carrying out the provisions of this subpart. The Maine Department of Environmental Protection is the only CAA permitting authority in the State of Maine and Maine is not proposing to delegate this authority.

The regulation at 40 CFR 51.163 provides that the plan must include the administrative procedures which will be followed in making the determination specified in paragraph (a) of 40 CFR 51.160. Maine's Chapter 149 and Chapter 164 rules both contain the administrative procedures and application requirements pursuant to which the State will act upon an application for a general permit. The rules specify the terms and conditions for the general permit application, including the application form and any other additional information required by Maine. See section 3 of Chapters 149 and 164.

The regulation at 40 CFR 51.164 sets requirements for good engineering stack practice height. Maine's Chapter 115 Major and Minor Source Air Emission License Regulations provide that Maine may require an air quality impact analysis for a minor source that has the potential to emit certain pollutants exceeding the thresholds. See section 7(B)(3) of Chapter 115. Air quality impact analysis and air quality monitoring requirements will be determined by Maine on a case-by-case basis considering a number of factors, including good engineering stack height. See Section 7(C) of Chapter 115. As previously noted, both Chapter 149 and Chapter 164 provide authority for Maine to require an operator to obtain an individual Chapter 115 air emission license, if appropriate.

Our evaluation of Maine's July 24, 2014 SIP submittals and supporting TSD demonstrates that the SIP submittals meet compliance requirements for SIP minor NSR programs under section 110(a)(2)(C) of the Clean Air Act.

IV. FINAL ACTION

EPA is approving the revisions to the Maine SIP submitted on July 24, 2014 and August 20, 2015. Specifically, EPA is approving the incorporation of the Maine 06-096 CMR

Chapter 149 “General Permit Regulation for Nonmetallic Mineral Processing Plants” (except the “director discretion” provisions in sections 5(A)(8), 5(A)(9)(a), and 5(A)(9)(b), and the opacity provisions in sections 5(A)(15), 5(C)(7), and 5(E), which were formally withdrawn from consideration as part of the SIP), and the Maine 06-096 CMR Chapter 164 “General Permit Regulation for Concrete Batch Plants” (except the “director discretion” provisions in sections 5(C)(2), 5(C)(3)(a), and 5(C)(3)(b), and the opacity provisions in sections 5(A)(10), 5(B)(3), 5(B)(4), 5(E), 5(F)(5) and 5(G)(4), which were formally withdrawn from consideration as part of the SIP).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice unless the Agency receives relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days from date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of

this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Maine 06-096 CMR Chapter 149 “General Permit Regulation for Nonmetallic Mineral Processing Plants” (except the “director discretion” provisions in sections 5(A)(8), 5(A)(9)(a), and 5(A)(9)(b), and the opacity provisions in sections 5(A)(15), 5(C)(7), and 5(E), which were formally withdrawn from consideration as part of the SIP) and the Maine 06-096 CMR Chapter 164 “General Permit Regulation for Concrete Batch Plants” (except the “director discretion” provisions in sections 5(C)(2), 5(C)(3)(a), and 5(C)(3)(b), and the opacity provisions in sections 5(A)(10), 5(B)(3), 5(B)(4), 5(E), 5(F)(5) and 5(G)(4), which were formally withdrawn from consideration as part of the SIP) described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action

merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an

immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2))

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 21, 2015

H. Curtis Spalding,
Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart U - Maine

2. In § 52.1020(c), the table is amended by adding new state citations for Chapter 149 and Chapter 164 in numerical order and revising footnote 1 to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Maine Regulations

State citation	Title/Subject	State effective date	EPA approval date EPA approval date and citation ¹	Explanations
**	*	*	*	**
Chapter 149	General Permit Regulation for Nonmetallic Mineral Processing Plants	04/27/2014	[Insert Federal Register date of publication date], [Insert Federal Register citation]	All of Chapter 149 is approved with the exception of the “director discretion” provisions in sections 5(A)(8), 5(A)(9)(a), and 5(A)(9)(b), and the opacity provisions in sections 5(A)(15), 5(C)(7), and 5(E), which were formally withdrawn from consideration as part of the SIP.
**	*	*	*	**
Chapter 164	General Permit Regulation for Concrete Batch Plants	04/27/2014	[Insert Federal Register date of publication date], [Insert Federal Register citation]	All of Chapter 164 is approved with the exception of the “director discretion” provisions in sections 5(C)(2), 5(C)(3)(a), and 5(C)(3)(b), and the opacity provisions in sections 5(A)(10), 5(B)(3), 5(B)(4), 5(E), 5(F)(5) and 5(G)(4), which were formally withdrawn from consideration as part of the SIP.
**	*	*	*	**

¹ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2015-25446 Filed: 10/8/2015 08:45 am; Publication Date: 10/9/2015]